



**U.S. Department of Justice
Tax Division**

*Western Criminal Enforcement Section
P.O. Box 972 202-514-5762 (v)
Washington, D.C. 20044 202-514-9623 (f)*

September 23, 2021

VIA EMAIL

The Chambers of
The Honorable George C. Hanks
United States District Court Judge
For the Southern District of Texas
ATTN: Jesus Argelis Guarjardo, Case Manager

*Re: United States v. Robert T. Brockman,
4:21-cr-009-GCH*

Dear Judge Hanks:

In preparation for the Competency Hearing scheduled in this case for November 15, 2021, the government respectfully requests the Court sign the attached Proposed Order regarding the supplemental examination and interview of the Defendant by the government's expert witnesses, Drs. Park Dietz and Robert Denney. In an effort to maintain the current schedule, the parties have met and conferred, and have reached agreement on a number of these issues. In accordance with the Court's ruling on September 13, 2021 (ECF Dkt. No. 136), the government requests that the Court enter the attached Order permitting the proposed examination and interview of the Defendant to proceed on the schedule contained therein.

The government takes the position that due to the elapse of time since the government's experts' examination of the Defendant on May 19, 20, and 21, and the Defendant's hospitalizations in June and September of this year, it is necessary for the expert witnesses to update their evaluation of the Defendant with a follow-up psychological examination and interview. This follow-up exam and interview will permit the government's expert witnesses to provide the Court with a timelier opinion of the Defendant's mental and cognitive health.

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The defendant objects to the additional examinations now requested by the government. On August 11, 2021, the defense moved for the appointment of a neutral court-designated expert to conduct any further court-ordered examination of Mr. Brockman. (Dkt. No. 105). During the Status Conference on September 13, 2021, the Court denied that motion in its entirety. Trans. at 38-39. (Dkt. No. 136). The defense maintains its position that an examiner designated by the Court pursuant to 18 U.S.C. §§ 4241 and 4247 must act “as an objective, non-partisan expert” *United States v. Fratus*, 530 F.2d 644, 649 (5th Cir. 1976), rather than as a partisan. Accordingly, the defense objects to the government’s request for the reasons set forth in the defense’s Motion for the Appointment of a Neutral Expert and supporting Reply. (Dkt. Nos. 105 and 122). Nevertheless, recognizing the Court’s decision of September 13, 2021, the defense has consulted with the government to resolve logistical issues and agreed to the dates and terms set forth in the attached Order to the extent the Court orders further examination by the United States’ partisan court-designated experts over the defense’s continuing objection.

Very truly yours,

DAVID A. HUBBERT
ACTING ASSISTANT
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s/ Corey J. Smith
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